

Section 103(a) rejection, for the following reasons.

The Office Action admitted that Shaftner fails to disclose "use of risers having planar upper surfaces in order to provide a stable/easily stackable base with which to raise the height of a roadway structure to a desired level." <sup>COLLAR BODY</sup> Although Applicant agrees that Shaftner fails to disclose risers having planar upper surfaces, the statement actually misstates the claimed invention, which, Applicant believes, gives rise to the misplaced reliance on Wiedrich. <sup>MPD</sup>

The riser of the present invention raises the height of the *resilient, replaceable collar body* [not the roadway structure as asserted by the Office Action] so that top surface of the collar body is substantially planar with the upper surface of the roadway structure. For example, the present invention recited in claim 1, and claims 2-7 and 10, at least by virtue of dependence, comprises a combination of elements, including a resilient riser maintaining the substantially planar alignment between the upper surface of the roadway structure and the upper surface of the collar body.

In contrast, Wiedrich discloses a molded plastic extension member for use in increasing the height of manholes (i.e., roadway structures). That is, the extension members of Wiedrich cause the roadway structure to extend even further above the pavement. Such extension members would exacerbate the problem the present invention attempts to solve, i.e., providing a smooth transition between a roadway structure extending above the pavement and the pavement. Thus, Wiedrich teaches away from the present invention, and thus, is not properly combinable with Shaftner and Grosh.

Even assuming Wiedrich is properly combinable with Shaftner and Grosh, for the sake of argument, the combination would not disclose the combination of elements recited in claims 1-7 and 10. Instead, the combination would result in a roadway structure (e.g., the manhole) having

an upper surface that is even further risen above the top surface of the collar body. Whereas, the riser of the present invention raises the height of the resilient, replaceable collar body so that top surface of the collar body is substantially planar with the upper surface of the roadway structure.

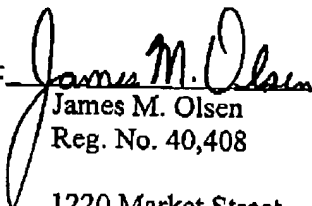
In light of the above, Applicant submits that Shaftner, Grosh, and Wiedrich, whether taken alone or in any reasonable combination, fail to disclose or suggest the combination of elements recited in claims 1-7 and 10, including the resilient riser maintaining the substantially planar alignment between the upper surface of the roadway structure and the upper surface of the collar body. Thus, these claims are allowable over these references. Applicant, therefore, respectfully requests the reconsideration and withdrawal of the Section 103(a) rejection of these claims. Applicant also requests reconsideration of the application, and the timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 03-2775. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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**EXHIBIT A - Amendments to the Claims of Serial No. 09/549,002****IN THE CLAIMS:**

Please amend claim 1 as follows:

1. (Four Times Amended) A system for protecting a roadway structure from damage caused by vehicular traffic and vice versa, the roadway structure extending above a roadway pavement, the system comprising:

a resilient, replaceable collar having a body with upper and lower surfaces, an opening provided therethrough and sized to accommodate the outer periphery of the roadway structure, and sloped side walls extending downward from the upper surface of the body towards the lower surface of the body, wherein the upper surface of the body is substantially planar and is in substantially planar alignment with an upper surface of the roadway structure; and

at least one resilient riser provided between the lower surface of the collar body and an upper surface of the roadway pavement, the resilient riser having a thickness so that the collar body and resilient riser together have a height substantially equal to the distance the roadway structure extends above the roadway pavement, wherein the lower surface of the collar body is planar and is in planar alignment with a planar upper surface of the resilient riser, the resilient riser maintaining the substantially planar alignment between the upper surface of the roadway structure and the upper surface of the collar body.